be entirely independent of the service she renders to her family. She may be engaged in a separate and independent business at the same time that she is performing her family duties. In such cases it seems that the damages she may recover for an injury that impairs her ability to engage in such business are personal, and that the husband has no interest in them. *Tuttle* v. *R. R.*, 42 Iowa 518; *Filer* v. *N. Y. C. R. R.*, 49 N. Y. 47. The fact that in most cases a woman's services to her family are measured by her capacity to do labor, and the resulting difficulty experienced in separating one from the other prevents the distinction from always being clear.

PERCOLATING WATERS—RIGHT OF CITY TO DIVERT—DAMAGES TO OWNER OF ADJACENT LANDS—FORBELL V. CITY OF NEW YORK, 61 N. Y. Sup. 1005.—The city, by means of an extensive system of porous underground conduits connected with a powerful pumping station collected the percolating waters of an area of several square miles. This land was bought by the city and used for this purpose only, and no improvement was made upon it, nor was any intended. The direct result was to lower the water level of the plaintiff's and other lands, and destroy the crops growing, or which might have been grown upon them. *Held*, the city was liable for the damages thus sustained.

The case is an extension of the doctrine laid down in *Smith* v. *The City of Brooklyn*, 54 N. E. 787; 9 *Yale Law Journal* 94. The facts are the same, but here the plaintiff is allowed to recover, not for the loss of the enjoyment of a running stream fed by these percolations, but directly for the loss of the percolating waters resulting in the failure of his crops. There his rights as riparian owner were involved, here only his rights as proprietor of the land. On principle the case is directly contrary to *Chaseman* v. *Richards*, 7 H. L. 349, and *Bradford* v. *Pickles*, 1895 App. Cases 587, though the facts were not so strong in the English cases.

RAILROADS—INJURY AT CROSSING—CONTRIBUTORY NEGLIGENCE—GILBERT V. ERIE R. Co., 97 Fed. 747.—Plaintiff's deceased drove upon a railroad crossing in a covered buggy. At 135 feet from said crossing he saw the approaching train, but drove upon the crossing and was killed. *Held*, the rule that plaintiff's contributory negligence is counteracted by defendant's knowledge of plaintiff's danger and neglect to take reasonable care to avoid injury to plaintiff does not apply where the negligence of plaintiff and defendant is concurrent.

As soon as contributory negligence became a common defence, limitations upon the doctrine began to be developed. One of these limitations is that which is recognized by the Supreme Court in *Railway Co.* v. *Ives*, 144 U. S. 408, and enunciated in *Davies* v. *Mann*, 10 Mees. & W. 546, "that contributory negligence of the party injured will not defeat the action if it be shown that the defendant might by the exercise of reasonable care have avoided the consequences of injured parties' negligence." This supposes an unequal amount of negligence on one side or the other. Where the negligence of both parties is equal, the rule does not apply, and the case becomes one governed by the usual rules in regard to contributory negligence. The present case places a natural and necessary limitation upon *Railway Co.* v. *Ives*.

RAILROADS—INJURY TO EMPLOYEE—POTTER V. DETROIT, G. H., & M. RY. Co., 81 N. W. 80 (Mich.).—A brakeman climbing upon the ladder on the side of a moving freight car, was struck and injured by a telegraph pole located near the track. *Held*, in an action to recover damages for the injury, that, though the plaintiff had many times before passed by this pole, it was a question for the jury as to whether he was chargeable with knowledge of the danger.